

OFFICE OF EXECUTIVE POLICY AND PROGRAMS OVERTIME/COMPENSATORY TIME POLICY AND PROCEDURE

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

I. Policy

The use of overtime should be an exception to the regular work schedule. All provisions in this policy are governed by principles established in the Fair Labor Standards Act (FLSA). By interpretation of the United States Department of Labor, the State is considered to be one employer for the purposes of applying FLSA. Employees, subject to overtime pay or compensatory time off under this policy, may not work overtime except in an emergency or when advance authorization has been given. Employees who violate this rule will receive compensation for the overtime but may be subject to disciplinary action.

II. Non-exempt & Exempt Employees

Under the Fair Labor Standards Act exemptions from both minimum wage and overtime pay requirements are for any employee in a bona fide executive, administrative or professional position. All other employees shall be non-exempt. The exempt/nonexempt status of any position is determined by the specific duties and salary of the position. The responsibility for determination of exempt or non-exempt rests with the Governor's Human Resources Office in conjunction with the appropriate office/division management.

III. General Provisions

Workweek

The normal workweek for Governor's Office employees in a FTE position shall either work 37.5 or 40 hour per workweek. However, employees shall not receive additional compensation for hours worked between 37.5 and 40 hours per workweek. Any employee may be required to work up to forty (40) hours per

workweek without additional compensation.

For FLSA record keeping purposes, the standard workweek for employees will begin at 12:01 a.m. Saturday and end at 12:00 midnight on Friday.

Overtime

All overtime must be pre-approved.

Overtime is all hours worked in excess of 40 in a seven consecutive day work period as defined by the Agency.

The requirements that overtime pay must be paid or compensatory time granted to nonexempt employees after 40 hours of work in a workweek shall not be waived by agreement between the supervisor and the employee.

Overtime hours are hours worked in excess of 40 in a given standard workweek. Hours worked include all the time an employee is required to be on duty, on the employee's premises or at other prescribed places of work, and any additional time the employee is required or permitted to work for the employer. Hours worked does not include leave time, holiday, or other paid or unpaid leave.

Hourly Rate

An employee's hourly rate is the "regular rate" for hourly employees. This rate is calculated by dividing the annual salary by 2080 hours. Hourly employees shall be compensated for all hours worked. Only salaried employees can be exempt, all employees compensated on hourly rate basis must be classified as non-exempt.

Overtime/Compensatory Time may not be Waived (off- the-record adjustment)

As a government agency, the Governor's Office has and exercises the right to substitute compensatory time off in lieu of pay for occurrences of overtime. Any proposed exceptions, with justification, to this policy must be submitted through the Human Resources Office.

Minimum Wage

All non-exempt employees must be paid not less than the current minimum wage.

Lunch/Meal Period

A bona fide meal period of thirty (30) minutes or more which occurs during the scheduled workday is not hours worked if the employee is completely relieved from duty for the purpose of eating a meal. Normally, the lunch period is one hour each workday. By flexible arrangement, an employee may be permitted to schedule a lunch period as short as 30 minutes.

Break Periods

Break periods of short duration must be counted as hours worked. For Governor's Office employees, when workloads permit, one morning and one afternoon break are permitted for not longer than 15 minutes each. Breaks shall not be used to allow an employee to come in late, leave early, or extend a lunch/meal period.

Dual Employment

Overtime hours worked by a non-exempt employee who works for the Governor's Office and one or more other State Agencies will be charged to one or more of the agencies by agreement among the respective agencies. Employees must receive prior approval pursuant to this policy and the Dual Employment Policy before entering into such an arrangement.

Adjusted Workweek

Under warranted circumstances, a non-exempt employee may be allowed to work in excess of the normal workday and may be given time off during the same workweek at the rate of an hour for an hour to avoid working over 40 hours in a workweek. This adjustment is not allowed for hours worked between 37.5 and 40.0 hours during any workweek. This type of work rescheduling precludes working more than 40.0 hours in a workweek and eliminates the need for overtime payment or compensatory time. Regular Rate of Pay
Regular rate of pay includes all remuneration for employment paid to an employee to include base pay, longevity and shift differentials.

On-Call

If an employee who is on-call is not confined to his home or any particular place but is required to only leave work where he can be reached, the hours spent are not regarded as work hours.

Travel Time

The following guidelines apply to non-exempt employees:

- a. Ordinary home-to-work and work-to-home travel time is not work time.
- b. One-day assignment in another location:
All time spent traveling on one-day assignments is considered time worked regardless of time of day or day of the week.

The amount of work time for such trips will be based on the estimated travel time from the employee's home to the destination place.
- c. Travel that occurs within an employee's work day:

Time spent by an employee in travel as part of his principal activity, such as travel between job sites during the workday, must be counted as hours worked.

The time spent during the workday traveling between home and the workplace is not work time. In the case an employee does not report to the normal working base to begin the workday, the travel time that will be work time will be the actual travel time from home to the destination place.

If an employee is required to report at a meeting place to receive instructions, perform other work there, or to pick up and to carry tools, materials, equipment or other employees, the travel from the designated place to the actual workplace is part of the day's work and is work time.
- d. Overnight assignment in another location:

Travel time away from home involving an overnight assignment for non-exempt employees is work time when it occurs during an employee's normal workday hours. This provision is applicable not only on regular working days but also during corresponding hours of non-working days.

Travel connected with an overnight assignment in another location occurring outside regular working hours need not be treated as work time in all situations.

If a non-exempt employee performs work related travel by driving or by operating a vehicle, the travel

time is considered hours worked and will be compensated at the applicable rate.

- e. Temporary assignments with daily commuting:
The travel time will be the estimated time from home to such destination place.

Lectures, Meetings, and Training Employees

When a nonexempt employee by reason of official responsibilities is required to attend lectures, meetings, training programs, etc., such time will be considered work time.

IV. Non-exempt Employees

- a. Hourly employees shall be compensated for all hours worked.
- b. Hourly employees are classified as non-exempt.
- c. All non-exempt employees must be paid not less than the current minimum wage.
- d. A record of hours worked by non-exempt employees must be maintained and kept on file for three years.
- e. Records of any accrued or used compensatory time must be kept for three years.
- f. Non-exempt employees may accumulate a maximum of 240 credited overtime hours before cash payments must be made. Once an employee has accumulated more than the maximum creditable hours allowed, the office must payroll any additional authorized hours worked.

Office/division management is responsible for ensuring that employees do not accumulate in excess of the maximum allowable or certify that funds are available within the existing budgets to pay overtime in excess of the maximum allowed accumulation.

Compensatory time off will be given for any occurring overtime at a rate of one and one-half hours for each hour worked in excess of 40 in the workweek (overtime). For example, four hours of overtime will yield six hours of compensatory time.
- g. A non-exempt employee who is required to work on a legal holiday shall be given compensatory holiday leave credits in accordance with Section 19.708.03 of the State Human Resource Regulations; however, time worked on a legal holiday shall be used in computing total hours worked.
- h. Compensatory time off must be scheduled with the respective supervisor.
However, an employee's request should be granted if made with reasonable

advance notice and if work load permits. Additionally, the Agency may schedule employees to take compensatory time off.

- i. Non-exempt employees required to work on a legal holiday shall be given compensatory holiday leave credits in accordance with State Human Resource Regulations. Time worked on a legal holiday shall be used in computing total hours worked.
- j. Upon separation of non-exempt employment, the employee will be paid for any overtime earned and/or accrued while in a non-exempt status.

V. Exempt Employees

- a. Although the FLSA does not require overtime compensation for exempt employees, compensatory time may be an option for approved circumstances.
- b. Compensatory time off may be scheduled only with supervisory approval. It is possible that an exempt employee will not be able to use all of their compensatory time.
- c. Upon separation of employment exempt employees will not be compensated for any unused compensatory time.
- d. Exempt employees required to work on a legal holiday shall be given compensatory leave credits in accordance with State Human Resource Regulations Section 19.708.03.

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